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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF SECRETARY

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

In the Matter of	)	
	)	
800 Data Base Access Tariffs	)	CC Docket No. 93-129
and the 800 Service Management	)	
System Tariff	)	

REBUTTAL TO OPPOSITIONS TO
UNITED TELEPHONE COMPANIES'
DIRECT CASE

Respectively submitted,

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May 5, 1994

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SUMMARY

The United Telephone companies ("United") hereby submit their rebuttal comments to the Oppositions filed in this proceeding on United's September 20, 1993 Direct Case.

MCI complains about the reasonableness of the method United employed to restructure the traffic-sensitive basket, while adjusting for exogenous changes. United performed the restructure first, then adjusted the PCI for exogenous cost changes. This methodology produced no impact on existing rate levels, resulted in revenue neutrality, and resulted in no additional pricing flexibility and thus met the Commission's objectives.

AT&T and MCI complain that United failed to justify all the costs treated as exogenous. United has justified its exogenous costs and demonstrated that the costs it included were incurred specifically for the provision of 800 data base service.

Finally, MCI complains that United has failed to adequately account for demand stimulation in the 800 market place. To the contrary, United added an 18.56 percent increase over originating 800 calls in 1992 to account for demand stimulation that was expected to occur due to 800 number portability.

As herein demonstrated, the MCI and AT&T complaints fail to establish that United 800 tariff is deficient in any respect and, accordingly, the tariff should be accepted as filed.

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REBUTTAL TO OPPOSITIONS TO
UNITED TELEPHONE COMPANIES'
DIRECT CASE

I. INTRODUCTION

The United Telephone companies ("United") hereby submit their rebuttal comments to the Oppositions filed in this proceeding on United's September 20, 1993 Direct Case.[1]

The complaints about United's 800 tariff are threefold. First, MCI complains about the reasonableness of the method United employed to restructure the traffic sensitive basket, while adjusting for exogenous changes. Second, AT&T and MCI complain that United failed to justify all the costs treated as exogenous. And third, MCI complains that United failed to adequately account for demand stimulation in the 800 market place. As herein demonstrated, these complaints fail to establish that United's 800 tariff is deficient in any respect and, accordingly, the tariff should be accepted as filed.

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1. While numerous parties filed oppositions or comments to LEC Direct Cases, only the Comments of MCI Telecommunications Corporation (MCI) and the AT&T Oppositions to Direct Cases specifically name United's Direct Case and direct comments against United.

II. United Properly Restructured the Traffic Sensitive Basket While Adjusting for Exogenous Changes.

As the Commission stated in the Designation Order, the price cap LECs employed either of two methods for restructuring the traffic sensitive basket and calculating exogenous costs.[2] United employed Method 1 and performed the restructure first, then adjusted the PCI for exogenous cost changes.[3] MCI objects that "Method 1 also results in minor changes to the existing SBIs for the service categories within the traffic-sensitive basket and is a violation of price cap rules."[4]

MCI is wrong; Method 1 does not violate the price cap rules. As the Commission held:

> the Commission rules do not specifically address the proper sequence for compliance when both the exogenous adjustment rules and the restructure rule are triggered simultaneously for a new service category within a basket . . . .[5]

Given the lack of a rule to provide guidance, the Commission stated that it would evaluate the appropriateness of the methods

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2. In the Matter of 800 Data Base Access Tariffs and the 800 Service Management System Tariff, CC Docket 93-129, Order Designating Issues for Investigation, 8 FCC Rcd 5132 (1993) at par.. 8 ("Designation Order").

3. The complete mechanics of Method 1 and United's application of same were detailed in paragraphs 11-14 of the Designation Order and will not be repeated here.

4. MCI at p. 41.

5. Designation Order at par. 10.

used to determine whether "one approach or another has an adverse impact on the reasonableness of rate levels or rate flexibility . . . ."[6]

United's application of Method 1 met both of the Commission's objectives. The methodology did not impact existing rate levels, produced revenue neutrality, and created no additional pricing flexibility.[7] The changes to the SBIs in all service categories, including the new 800 data base category, resulting from the exogenous cost adjustments were too minor to produce any adverse impact on rate levels or pricing flexibility. They did not produce results contrary to the intent of the price cap rules.

Even AT&T, while suggesting a preference for the Commission's alternative Method 3, acknowledged that Method 1 is acceptable: ". . . although the outcome under Method 1 is generally consistent with price cap policies (<u>and perhaps need not be corrected for this filing</u>) its future use should not be permitted."[8] Indeed, AT&T's only real objection to Method 1 is that it is the most complex method.[9]

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6. <u>Id</u>.

7. United Direct Case at p. 7.

8. AT&T at pp. 7-8. Emphasis supplied.

9. AT&T also suggests that the use of Method 1 requires a waiver of price cap rules. <u>See</u> AT&T at p. 7, Fn. 15. However, as United pointed out in its Direct Case, because there are no price cap rules on point, a waiver is inappropriate.

United submits that its use of Method 1 was a reasonable means to restructure its traffic sensitive baskets, while adjusting for exogenous costs.

III. United Properly Computed and Justified its Exogenous Costs

Both MCI and AT&T object that United improperly computed its exogenous costs.[10]

A. Stand-alone 800 costs.

MCI claims that only costs that are stand-alone 800 costs may be exogenous:

> Thus, to support extraordinary -- exogenous -- treatment under price caps . . ., the LECs must meet a substantial burden of proof that specific incremental costs were incurred exclusively for the implementation of 800 data base access . . . .[11]

MCI is incorrect, exclusivity is not a test for exogenous cost treatment. Rather, as AT&T correctly points out:

> The 800 Rate Structure Order (# 27) allows the LECs to treat as "exogenous" those costs reasonably "incurred specifically for the implementation and operation of the basic 800 data base service."[12]

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10. AT&T argues that Ameritech, Bell Atlantic and NYNEX improperly levelized demand over a five year period to compute the exogenous cost adjustment. United used levelized demand and expenses for rate level determination, however it did not use levelized demand to calculate the adjustment for exogenous cost treatment.

11. MCI at p. 6.

12. AT&T at p. 11.

As hereinafter demonstrated, United has met the Commission's test for exogenous treatment. Therefore, MCI's argument for a stand-alone test should be disregarded.

B. Disparate costs among the LECs.

MCI complains that "the various cost components that price cap LECs have included as exogenous . . . vary significantly among the LECs," and concludes that "some LECs have inappropriately included certain categories of costs or have incorrectly allocated costs to 800 data base service."[13] Specific to United, MCI complains that "GTE and United allocate the most [costs]. . . ."[14] and that whereas United included $1.9 million in exogenous costs for signaling links between local and regional STPs, "Ameritech and US West seek recovery only for modest amounts . . . $11,121 and $104,077 respectively . . . ."[15]

United submits that MCI's argument is without merit. United's costs are its costs, and provided those costs are justified, the fact that other, dissimilarly situated LECs, have different costs to provide the same service proves nothing.

That said, there are some fairly simple and obvious explanations for some of the variance in costs between United and

13. MCI at p. 7.

14. MCI at p. 16.

15. Id. at p. 17.

other LECs. As to the claimed "excessive" costs for signaling links, MCI must realize that United, unlike the BOCs, does not have contiguous territory and does not have an internally owned official network that connects its STPs and can be used for 800 queries. Rather, United's territory is geographically dispersed and United must utilize the services of IXCs for its links between its local and regional STPs. In order to ensure network reliability United, consistent with industry standards, utilizes redundant links and purchases tariffed services from several IXCs, including MCI.

As to the claimed disparity in total exogenous costs claimed by United as compared with some of the BOCs, United cannot explain the differences. For example, MCI's Appendix I, Schedule A shows that United included SCP costs of $3,687,217. Only GTE's SCP costs were higher, and several of the BOCs were significantly lower. United understands that all owner/operators were charged an 800 Data Base SCP owner/operator right to use fee and that the fee was computed for each owner/operator on the basis of size. Therefore, United does not understand how the SCP cost included by a BOC could, in some instances, be even less than what United had to pay for the right to use fee.[16]

Regardless though of what other LECs did or did not include, United's costs have been fully justified and are properly treated

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16. See e.g. NYNEX D&J at Exhibit 2-1.

as exogenous. The bulk, over 60%, of the SCP costs were made up of $2,250,000 for the 800 Data Base SCP owner/operator right to use fee United paid to Bellcore to be an 800 Data Base Owner/Operator. This fee entitles United to receive downloads of 800 Information Records from the national SMS data base. This fee was necessary to the provision of 800 data base service and only relates to the provision of 800 data base access service.

Additionally, United serves more rural areas, proportionately, than most 800 data base owners and has significantly lower demand quantities, that in turn result in higher unit cost. For example, Bellcore recently changed its methodology for allocating ongoing overhead and maintenance expense for the national SMS/800 data base. Instead of allocating this expense based on size, a reasonable proxy to equate with use, Bellcore is allocating this overhead and maintenance expense equally among all data base owners. Given United's smaller size and demand, its unit cost will clearly be higher than that of the larger LECs. While United does not believe such allocation method is proper or appropriate, it has no choice but to pay what Bellcore demands.

C. Jurisdiction of costs.

MCI complains that several LECs violated Part 36 by jurisdictionalizing costs on a relative use basis. Since most 800 calls are interstate in nature, allocation on relative use, allocates more costs to interstate than would following the Part 36 allocations. However, as the Commission acknowledged in its 800 Order on Further Reconsideration, the existing Part 36 rules may not adequately address the allocation of SS7 technology such as that used for 800 database service:

> Cost allocation and recovery practices for SS7 technologies are under discussion by the Federal-State Joint Board in CC Docket 80-286. Specifically, the Joint Board is discussing whether SS7 technology costs are fairly apportioned under existing separations rules. We agree with this approach and we support the action that the Joint Board has taken to date.[17]

Accordingly, until such time as the Joint Board and the FCC conclude their investigation, and given that an 800 query does not cost more or less depending on its jurisdiction, United's relative use method does not violate the Part 36 rules and is the only method available to ensure that costs are allocated to the cost causer and not arbitrarily allocated to the intrastate jurisdiction in accordance with rules that were not designed with 800 database access service in mind.

D. SSP Software Costs.

MCI erroneously claims that ". . . United and US West claim that SSP costs should also be treated as exogenous."[18] To the contrary United claims as exogenous, software that had to be

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17. In the Matter of Provision of Access for 800 Service, CC Docket No. 86-10, Memorandum Opinion and Order on Further Reconsideration, FCC 93-54, released January 29, 1993 at par. 48 ("800 Order on Further Reconsideration.")

18. MCI at p. 9.

added to certain switches that were already equipped with SSP functionality so that 800 database service could be provided. As United previously explained:

> . . . United's rates reflect the expense of end office/tandem switch software that is specific to 800 data base access. The software is being deployed at approximately 107 United end offices and tandems with SSP functionality. As United explained in its D&J, these software packages are NTX554AA for Northern Telecom's DMS switches and 99-5E-0471 for AT&T Technology switches.
>
> Without this software, switches cannot perform the 800 data base queries required to route 800 calls, even though the switches have been provisioned with SSP functionality. . . . With SSP functionality, these switches were used to access the LIDB data base and were capable of performing common channel signaling. However, the switches were not capable of providing 800 data base access until the NTX554AA and 99-5E-0471 software packages were installed.[19]

The cost of the software packages for the SSP equipped switches was specifically incurred for the provision of 800 data base access service and is not, as MCI purports, an SSP cost that is a part of core SS7 technology. United properly included the software costs in its calculation of exogenous costs.

E. Inclusion of Overheads.

Both AT&T and MCI object to the inclusion of overhead costs in the calculation of exogenous costs because overhead

19. United's Direct Case at p. 10.

costs cannot be incurred specifically for a particular service. United disagrees. As previously demonstrated, United has incurred and will continue to incur costs for land, buildings, and general administration that would not be necessary but for the provision of 800 data base access service.[20]

IV. United Accounted for 800 Demand Stimulation

MCI complains that "United did not take demand stimulation into account at all."[21] To the contrary, as United explained in its Direct Case, United added an 18.56 percent increase over originating 800 calls in 1992 to account for demand stimulation that was expected to occur due to 800 number portability. However, for the later years of United's demand forecast, United relied on historical demand growth without adding any additional demand stimulation, beyond the compounding effect of the first year's stimulated factor, reflecting the fact that demand growth for a new service levels off over time.[22] United submits that it adequately accounted for demand stimulation and, MCI's protests notwithstanding, there are absolutely no facts on the record to suggest otherwise.

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20. See, United's Direct Case at pp. 11-12.

21. MCI at p. 43.

22. United's Direct Case at p. 19. United's average historical growth for the United companies ranged from 5% (Indiana) to 15% (Northwest.)

V. Conclusion

United has justified its costs and demonstrated that its tariff filing was not unlawful. Accordingly, United's tariff should be accepted as filed.

Respectively submitted,

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May 5, 1994

CERTIFICATE OF SERVICE

I, Melinda L. Mills, hereby certify that I have on this 5th day of May, 1994, sent via U.S. First Class Mail, postage prepaid, or Hand Delivery, a copy of the foregoing "Rebuttal to Oppositions to United Telephone Companies' Direct Case" in the Matter of 800 Data Base Access Tariffs and the 800 Service Management System Tariff, CC Docket No. 93-129 filed this date with the Acting Secretary, Federal Communications Commission, to the persons listed on the attached service list.

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